

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 5, 2001

IN RE:)	
)	
GENERIC DOCKET TO ESTABLISH UNE PRICES)	DOCKET NO.
FOR LINE SHARING PER FCC 99-355, AND RISER)	00-00544
CABLE AND TERMINATING WIRE AS ORDERED)	
IN TRA DOCKET 98-00123)	

SECOND ORDER ADOPTING INTERIM RATES

This matter came before the Tennessee Regulatory Authority ("Authority") at a regularly scheduled Authority Conference held on November 7, 2000 upon the filing of interim rate proposals and comments by the parties.

I. Factual and Procedural History

On May 9, 2000, during a regularly scheduled Authority Conference, the Directors voted unanimously to open a generic docket for the purpose of establishing permanent UNE prices for line sharing per the Federal Communications Commission's ("FCC") *Line Sharing Order*¹ and permanent prices for riser cable and network terminating wire per the Authority's Order in Docket No. 98-00123.² The Authority also requested that all interested parties file cost studies, proposed permanent prices, and proposed terms and conditions for the line sharing, riser cable, and network terminating wire elements by June 30, 2000. The Authority further directed the

¹ *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 99-355, CC Docket No. 98-147, 14 FCC Rcd. 20912 (December 9, 1999) (Third Report and Order).

² *Petition of NEXTLINK Tennessee LLC for Arbitration of Interconnection with BellSouth Telecommunications, Inc.*, Docket No. 98-00123, p. 7 (June 25, 1999) (Final Order of Arbitration).

parties that the cost studies, prices, terms, and conditions were to be consistent with the cost methodology adopted by the Authority in Docket No. 97-01262, the Permanent Prices docket,³ and the FCC's line sharing requirements. In addition, the Authority instructed all interested parties to file reply comments on the proposals by July 15, 2000. At a regularly scheduled Authority Conference on July 11, 2000, the Directors voted unanimously to appoint Director H. Lynn Greer as the Pre-Hearing Officer.

Numerous parties sought to intervene in this docket. Time Warner Telecom of the Mid-South, L.P. ("Time Warner") filed a petition to intervene on June 27, 2000. Petitions to intervene were also filed on June 30, 2000 by United Telephone-Southeast, Inc. ("United"), Sprint Communications Company, L.P. ("Sprint"), AT&T Communications of the South Central States, Inc. ("AT&T"), TCG MidSouth, Inc. ("TCG"), Telephone Data System Companies ("TDS"),⁴ Rhythm Links, Inc., MCI Telecommunications d/b/a MCI WorldCom ("MCI"), BellSouth Telecommunications, Inc. ("BellSouth"), NEXTLINK Tennessee, Inc. ("NEXTLINK"), BlueStar Networks, Inc. ("BlueStar"), and DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad"). Broadslate Networks of Tennessee, Inc. ("Broadslate") and Network Telephone Corporation ("Network Telephone") filed petitions to intervene on July 14, 2000.⁵

BellSouth and United/Sprint filed cost studies on June 30, 2000.⁶ BellSouth's cost study contained rates, terms, and conditions for all the elements requested by the Authority.

³ *Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262.

⁴ TDS includes Tennessee Telephone Co., Humphreys County Telephone Co., Concord Telephone Exchange, Inc., and Tellico Telephone Co.

⁵ Network Telephone filed a *Notice of Withdrawal* on September 26, 2000.

⁶ BellSouth did not file the proprietary portions of its cost study on June 30, 2000 because the parties had not entered into a proprietary agreement. The parties filed a proposed protective order on July 20, 2000, and upon entry of the proposed order by the Pre-Hearing Officer, BellSouth filed the remaining portions of its cost study on July 21, 2000. Nevertheless, the date on the proprietary portions of BellSouth's cost study is June 30, 2000.

United/Sprint's cost study did not include rates, terms, and conditions for riser cable and unbundled network terminating wire elements. United/Sprint claimed that it had not provided the information because its customers had not requested these loop sub-elements.

On July 11, 2000, BlueStar and Covad filed a *Motion to Expand Docket No. 00-00544 to Set Rates for Unbundled Copper Loops (UCLs), Loop Conditioning and Access to Loop Make-Up Information*. The Motion to Expand requested that the Pre-Hearing Officer set both permanent and interim rates. Also on July 11th, BlueStar, Covad, AT&T, TCG, and NEXTLINK filed a *Motion to Establish a Procedural Schedule and Motion to Extend the Deadline for Filing Reply Comments*. Broadslate and Network Telephone filed comments on July 14, 2000 in support of the Motion to Expand.

On August 10, 2000, the Pre-Hearing Officer issued an Order reflecting the rulings rendered during a Pre-Hearing Conference held on August 3, 2000. In the Order, the Pre-Hearing Officer granted the interventions, ordered that interim rates be set, and established a procedural schedule to simplify the filing of proposed interim rates and responses thereto.⁷ In addition, the Pre-Hearing Officer granted BlueStar and Covad's Motion to Expand the docket to include the setting of rates for unbundled copper loops ("UCLs"), loop conditioning, and access to loop makeup information as well as BellSouth's oral motion to expand the docket to include setting rates for the *UNE Remand Order*⁸ elements, but limited such expansion to those elements that are the subject of a pending arbitration.

⁷ The Order stated that the Pre-Hearing Officer would set the interim rates. During the September 26, 2000 Authority Conference, the Pre-Hearing Officer corrected the August 10th Order by announcing that the Order should have stated that the Authority would set the interim rates. *See Transcript of Proceedings*, p. 39 (Authority Conference September 26, 2000).

⁸ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 99-238, CC Docket No. 96-98, 15 FCC Rcd. 3696, (November 5, 1999) (Third Report and Order and Fourth Further Notice of Proposed Rule Making).

On August 14, 2000, Vectris Telecom, Inc. (“Vectris”) filed a Petition to Intervene. On August 23, 2000, the Pre-Hearing Officer transmitted a letter to all parties requesting that any comments on the Petition to Intervene be filed no later than August 28, 2000. None of the parties filed comments. The Pre-Hearing Officer entered an order granting Vectris’ Petition to Intervene on September 1, 2000.⁹

On August 18, 2000, United/Sprint filed its revised line sharing cost studies and interim rate proposals, and BellSouth, the Data Coalition,¹⁰ and MCI and Broadslate¹¹ collectively filed interim rate proposals. In addition, NEXTLINK and Time Warner filed joint comments adopting the comments and proposed rates filed by the Data Coalition for UCLs, loop conditioning, access to loop makeup information, line sharing, riser cable, and network terminating wire and MCI’s proposed interim rates for high capacity lines.

On August 25, 2000, BellSouth, the Data Coalition, MCI, NEXTLINK, and Time Warner filed comments on the proposed interim rates. On September 5, 2000, BellSouth filed its supplemental reply. The Data Coalition filed its surrebuttal comments on September 6, 2000, and BellSouth filed its surreply on September 12, 2000.

The Authority issued data requests related to the *UNE Remand Order* elements on September 8, 2000. United/Sprint, the Data Coalition, and BellSouth each filed a response to the data requests on September 15, 2000. AT&T filed its response on September 22, 2000.

The Authority first considered interim rates at a regularly scheduled Authority Conference on September 26, 2000. During that Conference, the Directors unanimously adopted interim rates for numerous elements, but declined to adopt interim rates at that time for riser

⁹ On November 6, 2000, Vectris filed *Vectris Communications, Inc.’s Notice of Withdrawal*.

¹⁰ The Data Coalition includes BlueStar, Covad, Broadslate, and Vectris.

¹¹ Broadslate joined in both the Data Coalition’s and MCI’s filings. In the latter, MCI and Broadslate supported the Data Coalition’s rates and proposed additional rates for elements the Data Coalition’s filing did not address.

cable, unbundled network terminating wire, and *UNE Remand Order* elements because the filings were unclear as to which elements were to be priced and which elements were included in Docket No. 97-01262, the Permanent Prices docket. In addition, the Authority approved and modified the terms and conditions for line sharing, riser cable, and unbundled network terminating wire proposed by BellSouth and adopted United/Sprint's terms and conditions for line sharing. The Authority ordered BellSouth to amend its terms and conditions to allow Competing Local Exchange Carriers ("CLECs") to purchase and provide their own splitter, consistent with the FCC's *Line Sharing Order*.¹²

The Authority directed United/Sprint to propose terms and conditions for riser cable and unbundled network terminating wire. Specifically, the Authority held that United/Sprint's terms and conditions should set out specific rates for riser cable and unbundled network terminating wire as well as standardize the ordering and provisioning process for all potential users of these elements. Lastly, the Authority ordered BellSouth to amend its cost studies, due October 2, 2000, as follows: 1) amend Operational Support Systems ("OSS") cost recovery to include in its line sharing rates those reasonable incremental costs of OSS modifications caused by the obligation to provide line sharing as an unbundled network element; 2) amend cross connects so that the rates reflect clearly whether the splitter is located within BellSouth's Main Distributing Frame; and 3) amend line sharing so that the rates reflect whether a CLEC provides a splitter in its own cage or in a common area of a central office and whether the CLEC is self-provisioned within its collocation space.

¹² *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, FCC 99-355, CC Docket No. 98-147, 14 FCC Red. 20912, ¶ 147 (December 9, 1999) (Third Report and Order).

The Authority issued data requests related to BellSouth's and the Data Coalition's proposed interim rates for the riser cable and unbundled network terminating wire elements on September 29, 2000. The request asked that each of the parties explain the similarities and differences of the elements proposed by BellSouth and the elements proposed by the Data Coalition.

BellSouth filed its *Unbundled Network Element Cost Studies* and United/Sprint filed its *Revised Line Share Cost Studies and Interim Rate Proposals* on October 2, 2000. United/Sprint did not propose any rates for the riser cable or unbundled network terminating wire elements.

On October 11, 2000, BellSouth and the Data Coalition responded to the Authority's September 29, 2000 data requests. In its response, BellSouth stated:

Initially, BellSouth set forth the elements listed above by the Data Coalition as part of the [unbundled network terminating wire] offering. Based on the results of an arbitration proceeding in Georgia, BellSouth has restructured the [unbundled network terminating wire] offering in all states which is now comprised only of element A.15.1. Therefore BellSouth's A.15.1 element corresponds to the combination of all of the Data Coalition's elements listed above.

II. November 7, 2000 Authority Conference – Findings and Conclusions

Based on the filings and responses to data requests, the Authority finds that the elements included in BellSouth's unbundled network terminating wire offering correspond to the combination of the Data Coalition's elements and the interim rates proposed by BellSouth are lower than the rates proposed by the Data Coalition. Therefore, the Authority unanimously adopts, as interim rates for BellSouth subject to true-up upon the setting of permanent rates,¹³ the interim rates proposed by BellSouth for unbundled network terminating wire elements.

¹³ The parties have agreed that interim rates are subject to a true-up once permanent rates are set. See *Transcript of Proceedings*, p. 37-63 (Pre-Hearing Conference, August 3, 2000).

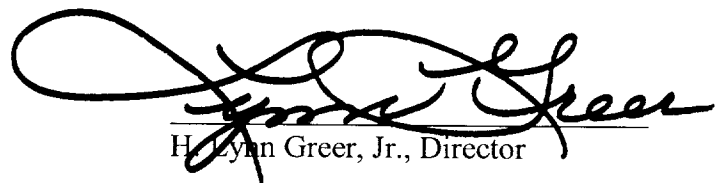
Furthermore, the Authority finds that BellSouth was the only party to propose interim rates for the riser cable elements. Also, BellSouth based its proposed interim rates on its line sharing cost studies. Therefore, the Authority unanimously adopts, as interim rates for BellSouth subject to true-up upon the setting of permanent rates,¹⁴ the interim rates proposed by BellSouth for the riser cable elements.

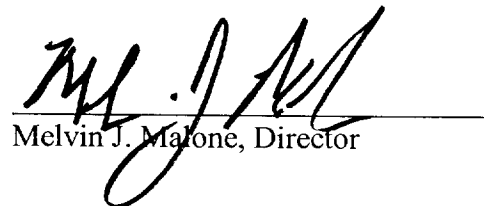
IT IS THEREFORE ORDERED THAT:

1) The Authority adopts the interim rates for BellSouth set forth herein and as reflected in the attached chart, Exhibit 1, which is hereby incorporated in this Order by this reference.

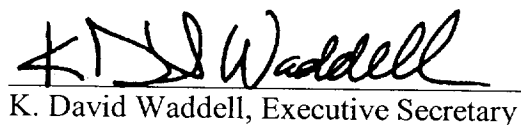
2) Any party aggrieved by this Order may file a Petition for Reconsideration pursuant to Tenn. Code Ann. § 4-5-317 with the Tennessee Regulatory Authority within fifteen (15) days of the entry of this Order.


Sara Kyle, Chairman


H. Lynn Greer, Jr., Director


Melvin J. Malone, Director

ATTEST:


K. David Waddell, Executive Secretary

¹⁴ The parties have agreed that interim rates are subject to a true-up once permanent rates are set. *See Transcript of Proceedings*, p. 37-63 (Pre-Hearing Conference, August 3, 2000).

BellSouth's Interim Rates for Riser Cable and Network Terminating Wire

Cost Element	Rate Element Description	Filed Costs		
		Recurring Costs	NRC - First	NRC - Additional
A.2.14	Sub-Loop Intrabuilding Network Cable (Riser Cable) Per 2-Wire Analog Voice Grade Loop	\$1.35	\$94.56	\$29.35
A.2.15	Sub-Loop Intrabuilding Network Cable Per 4-Wire Analog Voice Grade Loop	\$2.26	\$116.14	\$37.10
A.2.19	Sub-Loop - Per Bldg Equipment Room - CLEC Feeder, Facility Set-Up		\$313.01	
A.2.20	Sub-Loop - Per Bldg Equipment Room - Per 25 Pair Panel Set-Up		\$108.06	
A.15.1	Unbundled Network Terminating Wire - Per Pair	\$0.4555	\$2.48	

EXHIBIT